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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,612	01/28/2004	Alejandra L. Beatty	42892.0900	3430
20322 7590 06/07/2007 SNELL & WILMER L.L.P. (Main) 400 EAST VAN BUREN ONE ARIZONA CENTER PHOENIX, AZ 85004-2202			EXAMINER CHEUNG, VICTOR	
			ART UNIT 3714	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/766,612

Applicant(s)

BEATTY ET AL.

Examiner

Victor Cheung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/28/2004</u> .  | 6) <input type="checkbox"/> Other: ____                           |

## DETAILED ACTION

### *Claim Objections*

1. Claims 1-10 are objected to because of the following informalities:

Re Claims 1-10: Limitations directed toward the same subjects or elements should use the same terminology. For example: "a particular student" is used in claims 1-2, 5-7, and 10, and "a student" is also used in claims 1, 3-5, 6, and 8-10. These terms, if they refer to the same student, should use the same terminology. Similar corrections should be made with regard to the terms "online profile" and "profile," and "plurality of questions" and "questions."

Re Claim 2: "specifying the permitted presentation options" should be --specifying permitted presentation options--.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kershaw et al. (US Patent No. 5,565,316) in view of Corder (US Patent No. 5,387,104) and Knutson (US Patent No. 7,050,753).

Re Claim 1: Kershaw et al. disclose a method for providing an online exam comprising receiving an online exam (Col. 10, Line 45-Col. 11, Line 2) having a plurality of questions (Col. 674, Lines 64-67), presenting the questions to a student via an electronic display (Col. 675, Line 6-9), and receiving answers to the questions and storing the answers (Col. 675, Lines 10-11). Kershaw et al. disclose that display options such as time remaining can be displayed and optionally turned off by the student (Fig. 41, No. 2261; Col. 31, Lines 33-40). Kershaw et al. additionally disclose receiving profile information based upon a particular student, the profile providing information to result in scripts being run for special conditions (Fig. 49, No. 426; Col. 41, Lines 27-36; Col. 28, Line 64-Col. 29, Line 1).

However, Kershaw et al. do not specifically disclose presentation options in an online profile based upon an individual educational plan.

Corder teaches, as part of an individualized lesson plan, determining an optimal method of cognitive strategy for presenting information to a student including Braille devices, large screens, speech processing, touch screens, voice recording, etc., (Fig. 1; Col. 9, Lines 20-27; Col. 10, Lines 1-46) and storing the optimal cognitive strategy for later retrieval (Col. 13, Lines 24-28).

Knutson teaches obtaining a learning profile and converting the learning profile into a learning profile object model or metadata, the object model or metadata containing learning proclivities, preferences, attributes, characteristics, etc., of the user (Col. 20, Lines 48-61). The object model and metadata are used to customize the presentation of content (Col. 12, Lines 13-30) so that each student can be taught while maximizing cognitive assimilation (Col. 2, Lines 6-21; Col. 11, Lines 42-46). The system also includes a testing module to test the subjects provided to the user (Col. 16, Lines 65-67).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an online profile based upon an individual educational plan to provide presentation options to a student, thus personalizing the presentation in a way to attend to the documented accessibility needs of the student.

Re Claim 2: Kershaw et al. do not specifically disclose receiving parameters specifying the permitted presentation options for the student.

Knutson teaches that object models and metadata are used to identify preferences, attributes, characteristics, etc., of the student (Col. 20, Lines 48-61).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to receive parameters specifying the permitted presentation options so that the presentation options to be used can be easily identified.

Re Claim 3: Kershaw et al. additionally disclose compiling data related to the performance statistics of each item used and created (Col. 2, Lines 10-18).

However, Kershaw et al. do not specifically disclose compiling data relating to the use of the presentation options and performance of the student.

Corder teaches evaluating the performance of the student after the student uses the individualized presentations (Col. 28, Lines 13-46).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to compile data relating to use of the presentation options and performance of the student, thereby assessing the overall effectiveness of the presentation options on the student's performance, adjusting the presentation of materials as needed.

Re Claim 5: Note that claim 5 recites similar limitations to that of claim 1, already discussed above in view of Kershaw et al., Corder, and Knutson, except that claim 5 additionally includes the method steps of receiving an individual educational plan for a particular student, and converting the individual educational plan into an online profile that controls presentation options available to the student when taking an online exam. By comparison, claim 1 only receives the online profile.

Kershaw et al. do not specifically disclose receiving an individual educational plan or converting the individual educational plan into a profile.

Knutson teaches obtaining a learning profile and converting the learning profile into a learning profile object model or metadata, the object model or metadata containing learning proclivities, preferences, attributes, characteristics, etc., of the user (Col. 20, Lines 48-61).

It would have been obvious to one of ordinary skill in the art to receive an individual educational plan and convert the individual educational plan into an online profile, thus creating a database for the purpose of identifying presentation options without other extraneous information of the individual educational plan and qualifying data.

Re Claims 6, 7, 8, and 10: Note that claims 6, 7, 8, and 10 include limitations of an apparatus comprising modules for performing the method steps of claims 1, 2, 3, and 5, respectively.

Kershaw et al. disclose that the system is computerized with different components (Col. 3, Line 60-Col. 5, Line 3) and that the system should be modular so that each component can be modified or replaced easily (Col. 3, Lines 53-56).

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4. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kershaw et al. (US Patent No. 5,565,316) in view of Corder (US Patent No. 5,387,104) and Knutson (US Patent No. 7,050,753), as applied to claims 1 and 6 above, and further in view of Rogers (*TOEFL CBT Practice Tests*).

Re Claim 4: Kershaw et al., as modified by Corder and Kutson, teach the limitations of claims 1 and 6.

However, they do not specifically teach providing a practice area for the student to submit answers to practice questions, not part of the online exam, using the presentation options.

Rogers teaches that online tests such as the TOEFL® include practice areas simulating the test questions and format, not part of the online exam (Page 1, “You need only...”; Page 3, “What format does...”).

Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a practice area, allowing the student to become familiarized with the exam and practice questions in a way that is not counted for or against the student’s score.

Re Claim 9: Note that claim 9 includes limitations of an apparatus comprising modules for performing the method steps of claim 4.

Kershaw et al. disclose that the system is computerized with different components (Col. 3, Line 60-Col. 5, Line 3) and that the system should be modular so that each component can be modified or replaced easily (Col. 3, Lines 53-56).

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- eSchool News (Schools Try Giving SAT Via Computer) discloses that computerized exams can be adapted to assist students with learning disabilities and different learning styles.
- Smolover (US Patent Application Publication No. 2003/0036046) discloses a system and method for providing content to a student through a computer network, wherein the content is provided in an interface customized by a student profile.
- Cappellucci et al. (US Patent Application Publication No. 2003/0078934) teach that presentation options can be used to customize a user interface and information being presented to a student based on a student profile, for example providing larger fonts.
- Whitehurst et al. (US Patent No. 6,978,115) disclose an adaptive training system in which a plurality of presentation styles for teaching a student are used, wherein the effectiveness of each presentation style is analyzed to provide the most effective method of presentation.
- Roper (US Patent No. 6,270,351) disclose a method of administering individual education plans including generating student records, obtaining qualification data, and determining types of services that are to be provided to the students.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Cheung whose telephone number is (571) 270-1349. The examiner can normally be reached on Mon-Thurs, 8-4:30, and every other Fri, 8-3:30.




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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VC

Victor Cheung  
June 2, 2007

  
Kathleen Mosser  
Primary Examiner  
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